

TOWN OF HORICON ZONING BOARD OF APPEALS
Minutes of May 22, 2012

Members Present: Gary Frenz, Cheryl Erickson, Priscilla Remington, Thad Smith, Curt Castner, Alternate: Carl Heilman and Bob Miller

Members Absent: None

Others Present: Zoning Administrator Gary McMeeKin, Town Attorney Mike Hill, Matt Simpson and Bob Olson Town Board Members, Jim Steen Deputy Zoning Administrator, Doug Paton Planning Board Chair, Paul Holmes Planning Board Member

Guests Present: Tom Johansen, Harvey Leidy, Scott Olson, Margaret Holmes, Peter Gaddy, Harvey & Herta Leidy, Matt Fuller, Teri & Paul Schuerlein, Claudia Braymer, MaryJane Dower, Robert LeBlanc, Donna and Frank Noon, Jon and Valerie Olin, Wayne Butler, Julie Cochran. Peter Chochi

Pledge

The regular meeting was called to order by Chair, Gary Frenz. Gary Frenz stated that a 10 PM time limit has been established. The board reviewed the April meeting minutes and corrected the Board Privilege regarding the roll call vote. Cheryl Erickson made a motion to approved the April meeting minutes as corrected, 2nd by Priscilla Remington. All Ayes.

NEW BUSINESS:

File # 2012-13 AV
Tax Map# 22.-1-5
Property Location: 1377 Palisades Rd
Property Owner: Westchester-Putnam Council BSA
Request: 25' 11" variance to construct a 65'11" high climbing tower

Peter Chochi, Board of Directors BSA stated that this is a covered structure with an inside staircase to be located at the most northern end of the property, will not be visible from anywhere in town, the roof structure will be green and will not stand out. Gary Frenz made a motion to deem the application complete and schedule a public hearing, 2nd by Cheryl Erickson, All Ayes.

PUBLIC HEARING:

File # 2012-09AV
Tax Map# 38.15-1-32
Property Locations: 4 Clearwater Lake Road
Property Owner: Peter Gaddy and Mara SanAntonio-Gaddy
Request: 163.61' roadway frontage variance to adjust the boundary lines and a 36' front yard setback variance to build a single family dwelling.

Peter Gaddy stated that he will build a year round home on the family lot, upgrading the septic, submitted a deed that transfers the additional property. Mike Hill stated that the Planning Board approved the boundary line adjustment at their last meeting out of usual order with the variance process due to ZBA and Planning Board meeting date changes and that decision should not influence this board's decision. Cheryl Erickson stated that the applicant went to great lengths to obtain enough property for the well and septic separation requirements. Gary Frenz stated that this is a pre-existing, non-conforming parcel in the LC-10 acre zone. Peter Gaddy stated that he negotiated this for two years and was able to obtain .09 acrsd from his neighbors and would have liked to purchase more land if possible. Gary Frenz asked is anyone had any comments or questions. Being no further comments or questions, Cheryl Erickson made a motion to close the public hearing, 2nd by Priscilla Remington. All Ayes.

UNFINISHED BUSINESS:

File # 2012-09AV
Tax Map# 38.15-1-32
Property Locations: 4 Clearwater Lake Road
Property Owner: Peter Gaddy and Mara SanAntonio-Gaddy

Request: 163.61' roadway frontage variance to adjust the boundary lines and a 36' front yard setback variance to build a single family dwelling.

The board reviewed the criteria: 1) Whether the benefit can be achieved by other means feasible to the applicant: The board agreed that due to the small lot size the house placement is appropriate and will allow for the proper well and septic placement. The lot size increase makes the lot more conforming. 2) Undesirable change in the neighborhood character or to nearby properties: This is a positive change due to a new upgraded septic system with the new home and size of new home is appropriate to the neighborhood. 3) Whether request is substantial: The request for a 40% roadway setback variance is substantial but the applicant indicated that they attempted to purchase as much land as possible from the neighbors, this is a pre-existing, non-conforming lot. The request for a 72% front yard setback variance is substantial but any placement of the home would require variances, this is a modest home replacing an existing structure that did not meet the setback requirements. 4) Whether request will have an adverse physical or environmental effects: This is a minimal effect essential building on the same footprint with a small expansion and new septic system. 5) Whether alleged difficulty is self-created: The board felt that this was not self created as this is a seasonal use home and will eventually need replacing in the future, not an unreasonable request. 6) Is this the minimum variance necessary: the home placement is at the minimum needed, there are a limited number of options available and this is the most optimum layout for the property. Gary Frenz made a motion to approve the two variances, 163.61' roadway frontage variance to adjust the boundary lines and a 36' front yard setback variance to build a single family dwelling as per discussion, 2nd by Priscilla Remington. All Ayes.

PUBLIC HEARING:

File # 2012-10AV
Tax Map# 72.13-2-47
Property Location: 7051 State Route 8
Property Owner: Daniel Webster
Request: 19' roadway setback variance to enlarge a deck.
Representative: Robert LaBlanc.

Cheryl Erickson stated that this is a variance for the pre-existing home, the deck is not changing anything. Robert LaBlanc stated that the applicants want to enlarge an existing deck. Gary Frenz asked if anyone had any comments or questions. Matt Fuller stated that he represents the Brant Lake Heights HOA and his clients are concerned that this deck would raise more issues with the BLH HOA dock due to the larger deck, the application is flawed and this board's decision will be based on substantial evidence. Cheryl Erickson asked if a site visit counted. Gary Frenz stated that this form has been used for years and there have been no legal repercussions, the paperwork stands. Being no further comments or questions, Cheryl Erickson made a motion to close the public hearing, 2nd by Curt Castner. All Ayes.

UNFINISHED BUSINESS:

File # 2012-10AV
Tax Map# 72.13-2-47
Property Location: 7051 State Route 8
Property Owner: Daniel Webster
Request: 19' roadway setback variance to enlarge a deck.
Representative: Robert LaBlanc.

The Board reviewed the criteria: 1) Whether the benefit can be achieved by other means feasible to the applicant: This is a variance for a deck expansion attached to a home that does not meet the roadway setback requirements of 50' the home is a pre-existing non-conforming structure. This is enlarging a structure essentially on the same footprint, any expansion would require a roadway setback variance and the location of the deck will not be changed. 2) Undesirable change in the neighborhood character or to nearby properties: This will not be an undesirable change to the neighborhood or nearby properties as this is an enlargement of an existing structure. 3) Whether request is substantial: The request is not substantial as the deck is a replacement essential on the same footprint blending into the surroundings, the home can not be moved to meet the required setbacks. 4) Whether request will have an adverse physical or environmental effects: There will be no adverse physical or environmental effects as this will not be visible from the road or the lake, there will not be an increase in the noise due to the larger deck. 5) Whether alleged difficulty is self-created: The board felt that this was not self created. 6) Is this the minimum variance necessary: This is the minimum variance necessary as this is a minimal expansion on a pre-existing, non-conforming structure. The board noted that this is exempt from SEQRA Cheryl Erickson made a motion to approve the 19' roadway setback variance per discussion, 2nd by Thad Smith. All Ayes.

UNFINISHED BUSINESS:

File # 2012-16A
Tax Map # 39.13-1-7.1
Property Location: 6 Horicon Birches Road
Property Owners: G Leon Cochran ETAL
Request: Appeal of Zoning Administrator’s determination.
Representative: Matt Fuller Esq. Fitzgerald, Morris, Baker, Firth PC

Gary Frenz stated that the public hearing on this matter was closed at the March meeting. Matt Fuller was given the opportunity to make additional comments stating that his client made comments at the last meeting, letters have been submitted to the board via email this afternoon regarding Mr. Cochran’s health issues and was concerned with the process as the requested more in-depth February meeting minutes were not distributed to the board and approved at this time. Mike Hill stated that at a prior meeting, Matt Fuller stated that the Essepian boathouse did not receive an Area Variance, just a Use Variance. Mike Hill continued to state that the Essepian file was researched an Area Variances and a Use Variance was reviewed by the ZBA at that time and both variances were approved. Matt Fuller stated that no approval of area variances is in the file. Mike Hill submitted to the board several instances that indicate an Area Variance was sought for the Essepian boathouse 1) the Warren County Planning Board recommendations indicating an Area Variance, 2) Zoning Administrator Lee Smith’s letter to ZBA Chairman Jerry Meader regarding the Area Variance, 3) the ZBA referral to the Planning Board 11/12/1997 with the recommendation to disapprove the Area Variance, 4) the ZBA minutes 11/25 1997 regarding setback regulations, concluding that an Area Variances was required in addition to a Use Variance for the Essepian boathouse. Gary Frenz stated that a Draft decision was just presented to the board for their review this evening. Matt Fuller stated that he submitted a letter to get the draft resolution prior to the meeting. Mike Hill indicated that there were intra-agency documents only and the applicant’s representative is not agreeable to extending the decision.

The board took a recess to review the February 2012 meeting minutes as the Cochran’s attorney Matt Fuller had requested the minutes be redone to provide more details. The board reviewed the February 2012 minutes and made some corrections. Cheryl Erickson made a motion to approve the corrected February meeting minutes, 2nd by Carl Heilman, All Ayes. Priscilla Remington and Thad Smith abstain from the vote as they were not present at the February 2012 meeting

The board resumed deliberations on

File # 2012-16A
Tax Map # 39.13-1-7.1
Property Location: 6 Horicon Birches Road
Property Owners: G Leon Cochran ETAL
Request: Appeal of Zoning Administrator’s determination.
Representative: Matt Fuller Esq. Fitzgerald, Morris, Baker, Firth PC

The Draft Resolution was read out loud. Discussion ensued regarding changes to the draft. After correcting the Draft Resolution **Cheryl Erickson made a motion to accept the corrected resolution Affirming Zoning Administrator’s Determination that 1) The applicants’ shoreline structure with at attached Deck does not meet the definition of a “boathouse” in the Town Zoning Law that was in effect when Zoning Administrator Silvernail issued the Zoning Compliance Certificate for the structure and, 2) a variance from the applicable shoreline setback is therefor required. The vote was as follows: Ayes: Cheryl Erickson, Thad Smith, Priscilla Remington, Gary Frenz Nays: Curt Castner.**

Curt Castner recused himself from File # 2012-08A Brant Lake Heights HOA as he was the past Zoning Administrator in the 1980’s and sat in the audience. Gary Frenz stated that Carl Heilman will be a voting member for this file in Curt Castner’s absence.

PUBLIC HEARING:

File # 2012-08A
Tax Map # 72.13-2-48
Property Location: State Route 8
Property Owner: Brant Lake Heights HOA
Request: Appeal of the Zoning Administrator’s determination.
Representative: Matt Fuller Esq. Fitzgerald, Morris, Baker, Firth PC

Matt Fuller stated that he feels some of the ZBA members have a conflict of interest due to a letter sent to the APA in February 2010, requesting these members to recuse themselves from this application. Matt Fuller also requested the the Town's attorney (Firm) recuse themselves as a principal owner represented Robert Olson in late 1980's early 1990's. Due to the time, Priscilla Remington made a motion to continue the public hearing on File #2012-08A until June 19th, 2012, 2nd by Thad Smith. All Ayes. Gary Frenz stated that the public hearing is still open.

Curt Castner returned to the board.

BOARD PRIVILEGE:

Reminder: The June meeting will be held on the 19th.

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 10:10 PM

Respectfully Submitted.
Christine Smith-Hayes, Secretary